

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARIA SOSA,  
Plaintiff,

v.

NATHANIEL BASOLA SOBAYO,  
Defendant.

Case No. [14-cv-03666-MEJ](#)

**ORDER TO SHOW CAUSE**

On August 13, 2014, Defendant Nathaniel Basola Sobayo removed this unlawful detainer action from San Mateo County Superior Court. *See* Dkt. No. 1 at 38 (Complaint – Unlawful Detainer, demand does not exceed \$10,000). However, an unlawful detainer action does not arise under federal law but is purely a creature of California law. *Wells Fargo Bank v. Lapeen*, 2011 WL 2194117, at \*3 (N.D. Cal. June 6, 2011); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at \*2 (C.D. Cal. Nov. 22, 2010). Thus, it appears that jurisdiction is lacking and the case should be remanded to state court. Accordingly, the Court ORDERS Defendant to show cause why this case should not be remanded to the San Mateo County Superior Court. Defendant shall file a responsive declaration by August 26, 2014. In his declaration, Defendant must address how this Court has jurisdiction over Plaintiff’s unlawful detainer claim.

Defendant should be mindful that an anticipated federal defense or counterclaim is not sufficient to confer jurisdiction. *Franchise Tax Bd. of California v. Construction Laborers Vacation Trust*, 463 U.S. 1, 10 (1983); *Berg v. Leason*, 32 F.3d 422, 426 (9th Cir. 1994). “A case may not be removed to federal court on the basis of a federal defense, . . . even if the defense is anticipated in the plaintiff’s complaint, and even if both parties admit that the defense is the only question truly at issue in the case.” *ARCO Environmental Remediation, LLC v. Dept. of Health*

1 *and Environmental Quality of the State of Montana*, 213 F.3d 1108, 1113 (9th Cir. 2000); *see also*  
2 *Valles v. Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005) (“A federal law defense to a state-  
3 law claim does not confer jurisdiction on a federal court, even if the defense is that of federal  
4 preemption and is anticipated in the plaintiff’s complaint.”). Thus, any anticipated defense, such  
5 as a claim under the Protecting Tenants at Foreclosure Act (“PTFA”), Pub.L. No. 111–22, § 702,  
6 123 Stat. 1632 (2009), is not a valid ground for removal. *See e.g. Aurora Loan Services, LLC v.*  
7 *Montoya*, 2011 WL 5508926, at \*4 (E.D. Cal. Nov. 9, 2011); *SD Coastline LP v. Buck*, 2010 WL  
8 4809661, at \*2–3 (S.D. Cal. Nov.19, 2010); *Wescom Credit Union v. Dudley*, 2010 WL 4916578,  
9 at 2–3 (C.D. Cal. Nov. 22, 2010); *Aurora Loan Services, LLC v. Martinez*, 2010 WL 1266887, at \*  
10 1 (N.D. Cal. March 29, 2010).

11 **IT IS SO ORDERED.**

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13 Dated: August 15, 2014

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16 MARIA-ELENA JAMES  
17 United States Magistrate Judge  
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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.


That on 8/15/2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Maria Sosa  
2154 University Avenue  
East Palo Alto, CA 94303

Nathaniel Basola Sobayo  
2148 University Avenue  
East Palo Alto, CA 94303-1714

Dated: 8/15/2014

Richard W. Wieking  
Clerk, United States District Court

By:   
Chris Nathan, Deputy Clerk to the  
Honorable MARIA-ELENA JAMES